

Union Calendar No. 404

103D CONGRESS
2D SESSION

H. R. 4926

[Report No. 103-727]

A BILL

To require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to United States banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering applications by foreign banks under the International Banking Act of 1978 and the Bank Holding Company Act of 1956.

SEPTEMBER 19, 1994

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

AUGUST 9, 1994

Mr. SCHUMER (for himself and Mr. LEACH) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

SEPTEMBER 19, 1994

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[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on August 9, 1994]

A BILL

To require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to United States banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Fed-

eral banking agencies to take such assessments into account in considering applications by foreign banks under the International Banking Act of 1978 and the Bank Holding Company Act of 1956.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “National Treatment in*
 5 *Banking Act of 1994”.*

6 **SEC. 2. FAILURE TO ACCORD NATIONAL TREATMENT TO**
 7 **UNITED STATES BANKING ORGANIZATIONS.**

8 *(a) IDENTIFYING COUNTRIES THAT MAY BE DENYING*
 9 *NATIONAL TREATMENT TO UNITED STATES BANKING OR-*
 10 *GANIZATIONS.—The Secretary of the Treasury shall iden-*
 11 *tify, after consultation with the Federal banking agencies,*
 12 *the extent to which foreign countries may be denying na-*
 13 *tional treatment to United States banking organizations—*

14 *(1) based on information relating to banking in*
 15 *the most recent report under section 3602 of the Om-*
 16 *nibus Trade and Competitiveness Act of 1988 (or the*
 17 *most recent update of such report); or*

18 *(2) based on more recent information that the*
 19 *Secretary considers appropriate.*

20 *(b) ASSESSING WHETHER POSSIBLE DENIAL OF NA-*
 21 *TIONAL TREATMENT MAY BE HAVING A SIGNIFICANT AD-*
 22 *VERSE EFFECT.—*

1 (1) *IN GENERAL.*—*The Secretary shall assess,*
2 *after consultation with the Federal banking agencies,*
3 *whether the possible denial of national treatment to*
4 *United States banking organizations by a foreign*
5 *country identified under subsection (a) may be hav-*
6 *ing a significant adverse effect on such organizations.*

7 (2) *FACTORS TO BE CONSIDERED.*—*In making*
8 *any assessment under paragraph (1), the Secretary*
9 *shall consider appropriate factors, including the fol-*
10 *lowing:*

11 (A) *The extent of United States trade with*
12 *and investment in the foreign country, the size*
13 *of the foreign country's markets for banking serv-*
14 *ices, and the extent to which United States bank-*
15 *ing organizations operate or seek to operate in*
16 *those markets.*

17 (B) *The importance of operations by United*
18 *States banking organizations in the foreign*
19 *country to the export of goods and services by*
20 *United States firms to such country.*

21 (C) *The extent to which the foreign country*
22 *provides in advance to United States banking*
23 *organizations a written draft of any measure of*
24 *general application that the country proposes to*
25 *adopt, such as regulations, guidelines, or other*

1 *policies regarding new products and services, in*
2 *order to allow an opportunity for such organiza-*
3 *tions to comment on the measure and for such*
4 *comments to be taken into account by the foreign*
5 *country.*

6 *(D) The extent to which the foreign coun-*
7 *try—*

8 *(i) makes available, in writing, to*
9 *United States banking organizations the*
10 *foreign country's requirements for complet-*
11 *ing any application relating to the provi-*
12 *sion of financial services by any such orga-*
13 *nization;*

14 *(ii) applies published, objective stand-*
15 *ards and criteria in evaluating any such*
16 *application from any United States bank-*
17 *ing organization; and*

18 *(iii) renders administrative decisions*
19 *relating to any such application within a*
20 *reasonable period of time.*

21 *(3) SOLICITATION OF COMMENTS.—Before mak-*
22 *ing any assessment under paragraph (1), the Sec-*
23 *retary may solicit comments concerning the effect of*
24 *the possible denial of national treatment on United*
25 *States banking organizations from interested parties.*

1 (c) *PUBLICATION.*—*The Secretary may publish a no-*
2 *tice in the Federal Register of—*

3 (1) *any assessment made under subsection (b)(1)*
4 *with respect to any country; and*

5 (2) *any change made with respect to any assess-*
6 *ment under such subsection which was previously*
7 *published in the Federal Register.*

8 (d) *DEFINITIONS.*—*The following definitions shall*
9 *apply for purposes of this section:*

10 (1) *BANKING ORGANIZATION.*—

11 (A) *IN GENERAL.*—*The term “banking orga-*
12 *nization” means any bank, any bank holding*
13 *company (including any company required to*
14 *file reports pursuant to section 4(f)(6) of the*
15 *Bank Holding Company Act of 1956), and any*
16 *savings and loan holding company (as such term*
17 *is defined in section 10(a)(1)(D) of the Home*
18 *Owners’ Loan Act).*

19 (B) *BANKING TERMS.*—*For purposes of this*
20 *paragraph, the terms “bank” and “bank holding*
21 *company” have the same meaning as in section*
22 *2 of the Bank Holding Company Act of 1956.*

23 (2) *FEDERAL BANKING AGENCIES.*—*The term*
24 *“Federal banking agencies” has the same meaning as*
25 *in section 3(z) of the Federal Deposit Insurance Act.*

1 (3) *NATIONAL TREATMENT.*—The term “national
 2 treatment” means, with respect to any foreign coun-
 3 try, treatment that offers United States banking orga-
 4 nizations the same competitive opportunities (includ-
 5 ing effective market access) in such country as are
 6 available to the foreign country’s domestic banking
 7 organizations in like circumstances.

8 (4) *SECRETARY.*—The term “Secretary” means
 9 the Secretary of the Treasury.

10 **SEC. 3. APPLICATIONS BY FOREIGN BANKS AND OTHER**
 11 **PERSONS OF A FOREIGN COUNTRY.**

12 (a) *APPLICATIONS UNDER THE INTERNATIONAL BANK-*
 13 *ING ACT OF 1978.*—Section 7(d) of the International Bank-
 14 *ing Act of 1978 (12 U.S.C. 3105(d)) is amended by adding*
 15 *at the end the following new paragraph:*

16 “(6) *ADDITIONAL STANDARD.*—In acting on any
 17 application under paragraph (1), the Board shall
 18 take into account whether the Secretary of the Treas-
 19 ury has published a notice, in accordance with section
 20 2(c) of the National Treatment in Banking Act of
 21 1994, that the possible denial of national treatment to
 22 United States banking organizations by the foreign
 23 bank’s home country identified under section 2(a) of
 24 such Act may be having a significant adverse effect
 25 on such organizations.”.

1 (b) *APPLICATIONS UNDER THE BANK HOLDING COM-*
2 *PANY ACT OF 1956.*—Section 5 of the Bank Holding Com-
3 *pany Act of 1956 (12 U.S.C. 1844) is amended by adding*
4 *at the end the following new subsection:*

5 “(g) *APPLICATIONS BY A FOREIGN BANK.*—In consid-
6 *ering any application or notice under section 3 or 4 by*
7 *any foreign bank (as defined in section 1(b) of the Inter-*
8 *national Banking Act of 1978), the Board shall take into*
9 *account whether the Secretary of the Treasury has published*
10 *a notice, in accordance with section 2(c) of the National*
11 *Treatment in Banking Act of 1994, that the possible denial*
12 *of national treatment to United States banking organiza-*
13 *tions by the foreign bank’s home country identified under*
14 *section 2(a) of such Act may be having a significant adverse*
15 *effect on such organizations.”.*

16 (c) *AMENDMENT TO CHANGE IN BANK CONTROL*
17 *ACT.*—Section 7(j) of the Federal Deposit Insurance Act (12
18 *U.S.C. 1817(j)) is amended by adding at the end the follow-*
19 *ing new paragraph:*

20 “(19) *NOTICE BY A PERSON OF A FOREIGN COUN-*
21 *TRY.*—

22 “(A) *IN GENERAL.*—In considering a notice
23 under this subsection by a person of a foreign
24 country, the appropriate Federal banking agency
25 shall take into account whether the Secretary of

1 the Treasury has published a notice, in accord-
2 ance with section 2(c) of the National Treatment
3 in Banking Act of 1994, that the possible denial
4 of national treatment to United States banking
5 organizations by such person's home country
6 identified under section 2(a) of such Act may be
7 having a significant adverse effect on such orga-
8 nizations.

9 “(B) PERSON OF A FOREIGN COUNTRY DE-
10 FINED.—For purposes of this paragraph, the
11 term ‘person of a foreign country’ means—

12 “(i) any entity that—

13 “(I) is organized under the laws
14 of the foreign country, or

15 “(II) has the entity's principal
16 place of business in the foreign coun-
17 try;

18 “(ii) an individual who—

19 “(I) is a citizen of the foreign
20 country, or

21 “(II) is domiciled in the foreign
22 country; and

23 “(iii) any person that is, directly or
24 indirectly, under the control of any entity

1 or individual described in clause (i) or
2 (ii).”.

3 (d) AMENDMENT TO NATIONAL BANK ACT.—Section
4 5155 of the Revised Statutes (12 U.S.C. 36) is amended
5 by adding at the end the following new subsection:

6 “(i) APPLICATION BY A BANK WHICH IS A PERSON
7 OF A FOREIGN COUNTRY.—In considering any application
8 under this section by any bank which is a person of a for-
9 eign country (as defined in section 7(j)(19)(B) of the Fed-
10 eral Deposit Insurance Act), the Comptroller of the Cur-
11 rency shall take into account whether the Secretary of the
12 Treasury has published a notice, in accordance with section
13 2(c) of the National Treatment in Banking Act of 1994,
14 that the possible denial of national treatment to United
15 States banking organizations by such person’s home coun-
16 try identified under section 2(a) of such Act may be having
17 a significant adverse effect on such organizations.”.

18 (e) AMENDMENT TO FEDERAL DEPOSIT INSURANCE
19 ACT.—Section 18(c) of the Federal Deposit Insurance Act
20 (12 U.S.C. 1828(c)) is amended by adding at the end the
21 following new paragraph:

22 “(12) APPLICATION BY A BANK WHICH IS A PER-
23 SON OF A FOREIGN COUNTRY.—In considering any
24 merger transaction under this subsection involving
25 any bank which is a person of a foreign country (as

1 *defined in section 7(j)(19)(B)), the responsible agency*
2 *shall take into account whether the Secretary of the*
3 *Treasury has published a notice, in accordance with*
4 *section 2(c) of the National Treatment in Banking*
5 *Act of 1994, that the possible denial of national treat-*
6 *ment to United States banking organizations by such*
7 *person's home country identified under section 2(a) of*
8 *such Act may be having a significant adverse effect*
9 *on such organizations."*

10 *(f) AMENDMENT TO FEDERAL RESERVE ACT.—The 3d*
11 *undesignated paragraph of section 9 of the Federal Reserve*
12 *Act (12 U.S.C. 321) is amended in the proviso by inserting*
13 *“, including section 5155(i) of the Revised Statutes,” after*
14 *“limitations and restrictions”.*

Amend the title so as to read: “A bill to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to United States banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering certain applications and notices by foreign banks and other persons of a foreign country.”.